

AUG 26 2005

FROMMER LAWRENCE & HAUG LLP

745 Fifth Avenue
New York, New York 10151
Telephone: (212) 588-0800
Facsimile: (212) 588-0500
E-mail: Firm@flhlaw.com

FACSIMILE COVER LETTER

To: Group Art Unit 1635
Firm: U.S. Patent and Trademark Office
Facsimile: (571) 273-8300
From: Thomas J. Kowalski (Reg. No. 32,147)
Deborah L. Lu (Reg. No. 50,940)
Date: August 26, 2005
Re: Application No. 09/245,603
FLH Reference No. 678503-2012.2
Number of Pages: 13
(including cover page)

If you do not receive all pages or are unable to read the transmission, please call and ask for Deborah Lu (Ext. 2088).

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Enclosed is a AMENDMENT AND RESPONSE TO OFFICE ACTION, RECORD OF INTERVIEW, STATEMENT OF COMMON OWNERSHIP AND REQUEST FOR INTERVIEW for filing in connection with U.S. Application No. 09/245,603.

Sincerely,

Deborah L. Lu

Deborah L. Lu
Reg. No. 50,940

CONFIDENTIALITY NOTICE

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AUG 26 2005

PATENT
678503-2012.2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : CURIEL ET AL.
Serial No. : 09/245,603
For : ADENOVIRUS VECTOR CONTAINING A
HETEROLOGOUS PEPTIDE EPITOPE IN THE HI LOOP OF
THE FIBER KNOB
Filed : FEBRUARY 5, 1999
Examiner : BRIAN A. WHITEMAN
Art Unit : 1635

745 Fifth Avenue
New York, NY 10151

FACSIMILE

I hereby certify that this paper is being facsimile transmitted to the
Patent and Trademark Office on the date shown below.

Deborah L. Lu, Reg. No. 50,940

Type or print name of person signing certification

Deborah L. Lu
Signature

August 26, 2005
Date of Signature

**AMENDMENT AND RESPONSE TO OFFICE ACTION, RECORD OF INTERVIEW,
STATEMENT OF COMMON OWNERSHIP AND REQUEST FOR INTERVIEW**

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is in response to the May 27, 2005 Office Action, setting a three month term for
reply. The Commissioner is hereby authorized to charge any additionally required fee, or credit
any overpayment in fees, to Deposit Account No. 50-0320.

PATENT
678503-2012.2

RECORD OF INTERVIEW

This is to record matters discussed during the April 26, 2005 telephonic interview among Brian Whiteman (Examiner) and Thomas J. Kowalski (Attorney, Reg. No. 32,147). Examiner Whiteman is thanked for the many courtesies extended during the interview.

Examiner Whiteman notified Applicants' representative that a request for an interview was noted in the response filed on February 17, 2005. The Examiner also notified Applicants' representative that he wanted to hold the interview after a non-final rejection including new rejections was mailed to Applicants' representative so that the interview would be a complete interview of all issues regarding the claims in the instant application. Applicants' representative acknowledged having the interview after the non-final rejection was mailed.

Accordingly, a summary and record of the interview is provided herewith.

PATENT
678503-2012.2**STATEMENT OF COMMON OWNERSHIP**

Please accept this statement of common ownership which asserts that The UAB Research Foundation is the common owner of U.S. Patent 6,824,771 ("the '771 patent") and application Serial No.: 09/245,603 ("the '603 application").

The Office Action dated May 27, 2005 included a rejection of claims 1, 2, 4, 9, 11 and 28 which utilized the '771 patent. While it is not agreed that obviousness has been established by the Examiner for the abovementioned claims, these rejections would be rendered moot if the '771 patent were ineligible for use as prior art.

Pursuant to 35 U.S.C. § 103(c), MPEP 706.02(I)(1) and MPEP 706.02(I)(2), the burden resides with the applicants to show that the '771 patent and the '603 application was commonly owned at the time the claimed invention was made or subject to an obligation of assignment that would establish common ownership.

When the '603 application was filed August 16, 2002, both the '603 application and the application of the '771 patent (U.S. patent application serial no. 09/569,789, "the '789 application") listed David T. Curiel, Victor N. Krasnykh, Ramon Alemany and Igor Dmitriev as inventors and the inventors of both applications had assigned or were obligated to assign their respective inventions to Merial Limited at the time the invention was made. The assignment of the '789 application was recorded on September 28, 2000 on Reel 011158/Frame 0884. The assignment of the '603 application was recorded on September 25, 2000 on Reel 011139/Frame 0691. Therefore, the appellants believe that common ownership has been established and as such U.S. Patent No. 6,824,771 is disqualified as prior art.